

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2007-0042-DWR

In the Matter of Amended Permit 20808 (Application 27614)

Monterey Peninsula Water Management District

**ORDER APPROVING, IN PART, PETITION FOR CHANGE OF POINTS
OF DIVERSION, POINTS OF REDIVERSION AND PLACE OF
STORAGE, AND ISSUING SEPARATE AMENDED PERMITS**

SOURCES: Carmel River and Carmel River Subterranean Stream tributary to Pacific Ocean

COUNTY: Monterey County

WHEREAS:

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Amended Permit 20808 to Monterey Peninsula Water Management District (MPWMD) on January 6, 1999, pursuant to Application 27614.
2. The water which the MPWMD is currently authorized to appropriate under Amended Permit 20808 is limited to the quantity which can be beneficially used and shall not exceed 42 cubic feet per second (cfs) by direct diversion and 24,000 acre-feet per annum (afa) by storage from November 1 of each year through June 30 of the succeeding year. Under Amended Permit 20808, the MPWMD is currently authorized to divert Carmel River water at the New Los Padres Dam (Point of Diversion) and at 32 extraction wells in the Carmel Valley Aquifer (Points of Diversion), and red divert stored water at the San Clemente Dam (Point of Rediversion) and at 32 extraction wells in the Carmel Valley Aquifer (Points of Rediversion), for irrigation, municipal and fish and wildlife uses within the MPWMD's boundaries.
3. On September 12, 2003, the MPWMD filed a petition to change Amended Permit 20808. This petition was submitted to facilitate development of a full-scale groundwater injection and recovery project in the Seaside Groundwater Basin. The MPWMD's petition seeks State Water Board authorization for the diversion of up to 7,300 afa of water from the Carmel River for the MPWMD Aquifer Storage and Recovery Project (ASR Project) in the Seaside Groundwater Basin. For purposes of operating this project, the petitioner seeks to change Amended Permit 20808's: (1) Season of Diversion, (2) Place of Storage, (3) Points of Diversion and (4) various permit terms that are related to the New Los Padres Dam project or are otherwise no longer applicable.
4. The MPWMD is proposing to construct and operate an ASR Project that allows diversion of a limited amount of surplus Carmel River flow for storage in, and later recovery from, the Seaside Groundwater Basin. The objective of the proposed ASR Project is to allow for changes in water supply operations in the Carmel River and Seaside Groundwater Basin that will benefit the natural resources of the Carmel River and the groundwater resources of the Seaside

Groundwater Basin, and improve the short-term reliability of the domestic water supply system in the Seaside area. The proposed operation of the ASR Project would result in reduced pumping of the Carmel River in the summer and fall and increased storage in the Seaside Groundwater Basin. The project concept promotes the conjunctive use of the area's water resources, and has the potential to significantly reduce impacts associated with low-flow season pumping from California American Water's (CAW) Carmel River Basin sources.

5. CAW owns 19 wells in the Carmel Valley Aquifer that the MPWMD will use to extract the water, and additional diversion facilities that the MPWMD proposes to use for this proposed ASR Project. The MPWMD's petition seeks to change Amended Permit 20808 to describe the 19 wells and 7 additional future well sites as Points of Diversion to offstream storage in the Seaside Groundwater Basin.
6. CAW owns the San Clemente Dam that the MPWMD will use to divert water from the Carmel River. The MPWMD's petition seeks to change Amended Permit 20808 to describe the San Clemente Dam as a Point of Diversion to offstream storage in the Seaside Groundwater Basin.
7. The MPWMD proposes that the diversion of water to offstream storage in the Seaside Groundwater Basin would occur in three phases: (1) Phase 1 - the MPWMD proposes to divert up to 2,426 afa of water, (2) Phase 2 - the MPWMD proposes to divert up to a total of 3,234 afa of water, and (3) Phase 3 - the MPWMD proposes to divert up to the total of 7,300 afa of water as requested in the petition. The proposed diversion of water from the Carmel River will occur from December 1 to May 31 of the following year.
8. The MPWMD is lead agency under CEQA and the National Environmental Policy Act (NEPA). On August 21, 2006, the MPWMD Board of Directors adopted Resolution 2006-04 to certify the Environmental Impact Report/Environmental Assessment (EIR/EA) and approve the Phase 1 ASR Project. The MPWMD filed its Notice of Determination (NOD) on August 23, 2006. Analysis under CEQA of future phases of the ASR has not been completed.
9. The MPWMD has completed construction of Phase 1 ASR Project facilities. The Phase 1 ASR Project consists of two injection/recovery wells and associated pipelines, electrical, backflushing and water treatment facilities.
10. The MPWMD prepared a water availability analysis in support of the petition to determine whether water is available for appropriation in accordance with water code section 1375d. The MPWMD analysis determined that an average of 7,185 afa of water is available each year during the proposed ASR Project diversion season of December 1 – May 31, for diversion from the lower reaches of the Carmel River subterranean stream in excess of fishery resources agencies' minimum bypass flow recommendations. The MPWMD's analysis concludes that there is sufficient water available in the lower reaches of the Carmel River subterranean stream for diversion to underground storage for the ASR project. This supports moving the location where water is diverted to storage downstream from the proposed New Los Padres Dam site. The Division finds that there is water available to supply this project.
11. In 2006, CAW and the MPWMD entered into the Aquifer Storage Recovery Management and Operations Agreement. By this Agreement, CAW and the MPWMD clarified their respective roles with regard to the operation and ownership of existing facilities for the Phase 1 ASR Project. CAW and the MPWMD agreed to cooperate in the acquisition of all permits or approvals required for implementation of the Phase 1 ASR Project and to support each other's efforts relating to the

development of future ASR projects. As a result of this agreement, CAW and the MPWMD will hold joint ownership of the water rights that are the subject of the MPWMD's petition, as directed in this order.

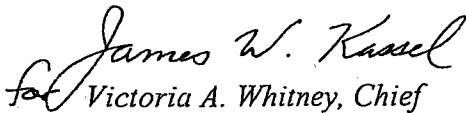
12. On April 15, 2005, the State Water Board issued a Notice of Petition for the MPWMD's petition. In response to the notice, the State Water Board accepted protests from the California Department of Fish and Game (DFG) and the National Marine Fisheries Service (NMFS). The protests submitted by the DFG and the NMFS were based on environmental issues, specifically that the project had the potential to adversely affect resources in the Carmel River, including species listed under the federal Endangered Species Act.
13. Based on protest settlement discussions between representatives of MPWMD, CAW, DFG and NMFS regarding terms for protest resolution, the parties reached agreement resulting in the withdrawal of DFG's and NMFS' protests, as represented by letters dated September 14, 2007 and September 17, 2007, on file with the State Water Board. All protest settlement discussions were limited to addressing the changes in beneficial use and water rights as described in the MPWMD's California Environmental Quality Act (CEQA) document, which analyzed impacts for the Phase 1 ASR Project. The parties have agreed that any permit issued pursuant to the MPWMD's petition should include all enforceable terms, which include the NMFS recommended bypass flows as stated in the document entitled, "Proposed Changes to Current Permit Conditions" which was attached to the September 14 and 17, 2007 letters.
14. The State Water Board acknowledges the intent, as represented by letter dated September 17, 2007, of the MPWMD and CAW to sign a Memorandum of Understanding (MOU) among the MPWMD, CAW, California Department of Fish and Game, and National Marine Fisheries Service regarding water management of the Phase 1 Seaside Basin Aquifer Storage and Recovery Project, by establishing protocols for the recovery of water from groundwater storage. The State Water Board will make no findings as to the intended content of the MOU and, therefore, will not enforce the conditions of any MOU as a condition of any permit issued pursuant to this order.
15. In accordance with CEQA requirements, project-level CEQA review is required before State Water Board approval can be issued for the full amount requested under the MPWMD petition. As a responsible agency under CEQA, the State Water Board has considered the environmental effects of the Phase 1 ASR Project as determined by the MPWMD's FEIR/FEA before reaching its own conclusions regarding the petition. (Cal. Code Regs., tit. 14, § 15096(f).) The information in the record and the findings in this order establish that approving, in part, the requested changes sought by the MPWMD, as directed in this order, will not result in a significant impact to the environment.
16. The State Water Board has delegated the authority to act on requests for change to the Chief of the Division pursuant to Resolution No. 2007-0057. The Division Chief has redelegated this authority to the Assistant Division Chief, and the Chief of the Permitting Section, and the Chief of the Hearings and Special Projects Section. (Redelegation memo from Victoria A. Whitney dated October 4, 2007.)
17. Pursuant to Resolution No. 2007-0057, the State Water Board has delegated authority to the Chief of the Division to administer the duties required under CEQA. The Division Chief has redelegated this authority to the Assistant Chief, the Chief of the Permitting Section, and the Chief of the Hearings and Special Projects Section. (Redelegation memo from Victoria A. Whitney dated October 4, 2007.)

18. The Division finds that the changes requested will not cause the projects authorized under the amended permits to operate to the injury of any legal user of the water involved.
19. Order WR 98-04, amending Decision 1632, was issued on February 19, 1998. Order WR 98-04 states that direct diversions and diversion to storage for the New Los Padres Project, pursuant to Application 27614, shall be allowed year-round subject to certain conditions.

THEREFORE, IT IS ORDERED:

1. Amended Permit 20808 is superseded by Amended Permit 20808A, issued to Monterey Peninsula Water Management District and California American Water, and Amended Permit 20808B, issued to Monterey Peninsula Water Management District.
2. Amended Permit 20808A is issued to authorize the ASR project with municipal use defined as purpose of use. The amount of water authorized to be diverted to underground storage in the Seaside Groundwater Basin is 2,426 afa. The points of diversion to offstream storage in the Seaside Groundwater Basin shall be limited to the San Clemente Dam, CAW's 19 wells and seven future well sites located in the Carmel River Aquifer.
3. Amended Permit 20808B is issued to maintain the portion of Amended Permit 20808 not utilized for the ASR project. The amount of storage authorized for diversion is reduced to 21,574 afa, and the maximum authorized amount of water to be taken from the source is reduced to 26,574 afa. Permit term 5 is rewritten to clarify the diversion season authorized in accordance with Order WR 98-04. Standard permit term 14, related to the taking of threatened or endangered species, and standard term 15, related to record keeping, are added to Amended Permit 20808B. No other terms or conditions of Amended Permit 20808 to be included in Amended Permit 20808B shall be changed by this order.
4. No further action will be taken by the Division under the Petition for Change to Amended Permit 20808 filed September 12, 2003. Any further changes to existing water rights in order to authorize future phases of the ASR project must be proposed under a new petition.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated: **NOV 30 2007**

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 20808

Application 27614 of Monterey Peninsula Water Management District,
187 El Dorado Street, Monterey, CA 93942-0085

filed on December 16, 1982 has been approved by the State Water Resources
Control Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of
this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:	Tributary to:
<u>(1,2) Carmel River</u>	<u>Pacific Ocean</u>
<u>(3-34) Carmel River subterranean stream</u>	<u>Pacific Ocean</u>

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
1. <u>New Los Padres Dam (Point of Diversion)</u> 2,100 feet North and 200 feet West of SE corner of Section 5	NE ¼ of SE ¼	5	18S	3E	MD
2. <u>San Clemente Dam (Point of Rediversion)</u> 1,700 feet North and 100 feet East of SW corner of Section 24	NW ¼ of SW ¼	24	17S	2E	MD
<u>Points of Diversion and Rediversion:</u>	NE ¼ of SW ¼	23	16S	1E	MD
3. Reimers Well 2,300 feet North and 1,800 feet East from SW corner of Section 23					
4. Pryor Well 1,700 feet North and 2,400 feet East from SW corner of Section 23	NE ¼ of SW ¼	23	16S	1E	MD

5. Scarlett Well 700 feet North and 100 feet East from SW corner of Section 19	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	9	16S	2E	MD
6. De Dampierre Well 1,600 feet North and 1,400 feet East from SW corner of Section 3	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	3	17S	2E	MD
7. Cañada Well 2,000 feet North and 2,000 feet East from SW corner of Section 17	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	17	16S	1E	MD
8. San Carlos Well 1,700 feet North and 900 feet West from SE corner of Section 17	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	17	16S	1E	MD
9. Cypress Well 2,200 feet South and 600 feet East from NW corner of Section 22	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	22	16S	1E	MD
10. Pearce Well 2,500 feet South and 2,200 feet East from NW corner of Section 23	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	22	16S	1E	MD
11. Schulte Well 2,300 feet South and 100 feet East from NW corner of Section 23	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	23	16S	1E	MD
12. Manor #2 Well 2,000 feet North and 2,100 feet East from SW corner of Section 23	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	23	16S	1E	MD
13. Begonia #2 Well 1,300 feet North and 300 feet East from SW corner of Section 24	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	24	16S	1E	MD
14. Berwick #7 Well 200 feet North and 800 feet East from SW corner of Section 24	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	24	16S	1E	MD
15. Berwick #8 Well 300 feet North and 1,700 feet East from SW corner of Section 24	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	24	16S	1E	MD
16. Scarlett #6 Well 400 feet North and 1,000 feet East from SW corner of Section 19	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	19	16S	2E	MD
17. Scarlett #8 Well 400 feet North and 900 feet East from SW corner of Section 19	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	19	16S	2E	MD
18. Stanton Well 1,200 feet South and 2,100 feet East from NE corner of Section 30	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	30	16S	2E	MD
19. Los Laureles #5 1,700 feet North and 2,500 feet West from	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	29	16S	2E	MD

SE corner of Section 29					
20. Los Laureles #6 900 feet North and 700 feet West from SE corner of Section 29	SE ¼ of SE ¼	29	16S	2E	MD
21. West Garzas #4 2,200 feet North and 2,000 feet East from SW corner of Section 33	NE ¼ of SW ¼	33	16S	2E	MD
22. Garzas Creek #3 500 feet North and 1,900 feet West from SE corner of Section 23	SW ¼ of SE ¼	33	16S	2E	MD
23. Panetta #2 Well 800 feet South and 200 feet East from NW corner of Section 3	NW ¼ of NW ¼	3	17S	2E	MD
24. Panetta #1 Well 1,000 feet South and 100 feet East from NW corner of Section 3	NW ¼ of NW ¼	3	17S	2E	MD
25. Robles #3 Well 600 feet South and 100 feet West from NE corner of Section 10	NE ¼ of NE ¼	10	17S	2E	MD
26. Russell #4 Well 0 feet South and 800 feet West from NE corner of Section 14	SW ¼ of SE ¼	14	17S	2E	MD
27. Russell #2 Well 400 feet South and 800 feet West from NE corner of Section 14	SE ¼ of SE ¼	14	17S	2E	MD
28. A Well 800 feet North and 1,800 feet West from SE corner of Section 13	SW ¼ of SE ¼	13	16S	1W	MD
29. B Well 1,700 feet North and 1,800 feet West from SW corner of Section 18	NE ¼ of SW ¼	18	16S	1E	MD
30. C Well 2,600 feet South and 500 feet East from NW corner of Section 22	SW ¼ of NW ¼	22	16S	1E	MD
31. D Well 2,500 feet South and 100 feet East from NW corner of Section 23	SW ¼ of NW ¼	23	16S	1E	MD
32. E Well 700 feet North and 2,300 feet West from SE corner of Section 24	SW ¼ of SE ¼	24	16S	1E	MD
33. F Well 1,300 feet South and 200 feet East from NW corner of Section 3	NW ¼ of NW ¼	3	17S	2E	MD

34. G Well 2,600 feet South and 1,000 feet East from NW corner of Section 3	SW¼ of NW¼	3	17S	2E	MD
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County of Monterey

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Municipal Irrigation Fish and Wildlife	110,000 acres within the boundaries of the Monterey Peninsula Water Management District					

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 42 cubic feet per second by direct diversion and 24,000 acre-feet per annum by storage from November 1 of each year through June 30 of the succeeding year.

Direct diversion and diversion to storage shall be allowed year-round, provided the project is operated in accordance with the schedule set forth in Permit Tables A, B and C for the period of time water is physically available over and above fish flow requirements, and provided further that until the reservoir project authorized by this permit becomes fully operational, no water may be diverted pursuant to this permit, either by direct diversion or diversion to storage except between November 1 and the following June 30.

The total amount of water to be taken from the source under this permit shall not exceed 29,000 acre-feet per water year of October 1 to September 30.

The total quantity of water originating in the Carmel River diverted to beneficial use by the California-American Water Company and the Monterey Peninsula Water Management District (including direct diversion and redirection of previously stored water, but not including diversions to storage) for municipal, domestic, industrial and irrigation purposes of use, including rights established by License 11866, Permit 7130B, Permit 20808, Application 30215 and any permit or license issued pursuant thereto, pre-1914 appropriative rights and riparian rights shall not exceed (a) 16,000 acre-feet per annum or (b) such lesser amount identified in the Supplemental EIR on the Carmel River Dam as the annual beneficial use requirements associated with total project yield or the California-American Water Company production limit. The limit in 5(a) above may be modified upon further order of the State Water Resources Control Board.

(0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

7. Construction work shall begin within four years from certification of the Carmel River Dam Supplemental Environmental Impact Report.

(0000007)

8. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2005.

(0000008)

9. Complete application of the water to the authorized use shall be made by December 1, 2020. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect

upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

14. This permit shall not be construed as conferring upon permittee right of access to the point of diversion.

(0000022)

15. Permittee's rights under this permit are junior to the rights of persons diverting water for reasonable beneficial use under valid and properly exercised riparian, overlying, and pre- and post-1914 appropriative claims of right which have a priority which is superior to the priority of Application 27614.

(050T001)

16. The priority of this permit shall be junior to any permit issued on the applications set forth in Table 13 of Decision 1632 or for the persons named in Table 13 of Decision 1632 for an amount of water not to exceed the quantity set forth in the column titled "*Quantity Reserved By SWRCB For Future Appropriations*". Applicants can request the State Water Resources Control Board (SWRCB) to modify the amounts in this column in accordance with the procedures in this condition.

Persons identified in Table 13 of Decision 1632 that have not filed an application to appropriate water must file an application by December 29, 1995 to benefit from this condition. To the extent such applicants and persons claim riparian, overlying, pre-1914 appropriative or other rights to use the water, they shall not be entitled to a post-1914 appropriative right for water in excess of established quantities of use as a result of this permit condition. Any priority obtained for a permit by virtue of this condition shall be void if the permittee and/or others divert more water under this permit and claimed underlying rights than is authorized on the face of the permit; however, the priority shall not be voided for the diversion of de minimis amounts which can be reasonably attributed to operational uncertainties.

Upon request by an applicant, a protestant, or the District, notification to the District and petitioner, and opportunity for comment, the SWRCB will review whether the amount set forth in the column entitled "*Quantity Reserved By SWRCB For Future Appropriations*" should be increased or decreased, at such time as an application is processed; however, no reconsideration will be provided for amounts based upon a stipulation between the District and an applicant, except in those instances where the stipulation is subsequently revised or new stipulation is entered into by the District with respect to Table 13 quantities.

Request for review shall be submitted and accompanied by prima facie evidence of established quantities of use to the Chief, Division of Water Rights, on or before December 29, 1995. Requests for review submitted after this date shall not be considered. The criterion for review shall be whether the applicant had an established reasonable beneficial use of water and the amount of such use on or before November 22, 1994. Recorded water use shall be based either on records of meter readings or well production records. Only recorded water use for the period January 1, 1987 through November 22, 1994 shall be considered. Limited meter readings are available for the Carmel River Valley beginning in 1987. The Chief, Division of Water Rights, is delegated authority to modify the quantities identified in Table 13 of Decision 1632. This condition is not a restriction on exercise of valid riparian, pre-1914 appropriative, or post-1914 appropriative rights which are senior to the

permit issued pursuant to Application 27614, or valid rights to diversion of percolating ground water.

(016T001)
(0500700)

17. Permittee shall not divert water under this permit unless and until California American Water Company (Cal-Am) has obtained an alternative supply of water for its illegal diversions from the Carmel River. A contract with permittee to obtain water made available under this permit is one means by which Cal-Am can obtain a legal supply of water in lieu of its existing diversions.

(0360900)

18. The New Los Padres Dam is of such size as to be within the jurisdiction of the Department of Water Resources as to safety, and construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam.

(0360048)

19. Permittee shall consult with the Division of Water Rights and develop, in conformance with Water Code Section 10610, et seq., and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(000029B)

20. The permittee shall prepare an Erosion Control Plan. The plan shall be submitted to the Chief of the Division of Water Rights, State Water Resources Control Board, for approval prior to project construction.

(0400500)

21. In accordance with Section 1601, 1603, and/or Section 6100 of the California Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream alteration agreement with the California Department of Fish and Game (DFG) and/or the DFG has determined that measures to protect fishlife have been incorporated into the plans for the construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee.

(0000063)

22. Prior to construction, permittee shall develop and implement a program in consultation with the California Department of Fish and Game (DFG) to monitor changes in channel capacity and growth of riparian vegetation downstream of the project. The program shall be submitted to the Chief, Division of Water Rights, for approval prior to initiation of construction activities. Changes shall be monitored for a period of 20 years from issuance of Permit after which time the program will be re-evaluated. Permittee shall submit the results of the monitoring program to the State Water Resources Control Board (SWRCB) and DFG annually with the Progress Report by Permittee.

If reduction in pre-project main stem channel capacity is confirmed, or changes in channel geometry increase the risk of bank erosion, and if inspection of sediment deposition indicates fishery habitat degradation,

permittee in consultation with SWRCB, DFG and other responsible resource agencies, shall devise and implement measures to correct the adverse changes. (0490500)
(0110700)

23. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Coast Region, or by the State Water Resources Control Board. (0000100)

24. For protection of the downstream fishery, permittee shall install and operate a multilevel intake structure on the outlet works of the New Los Padres Dam. The structure shall be designed to provide temperature control and maximum reaeration of released water. The design of the intake structure shall be approved by the Department of Fish and Game prior to project construction. (0400500)

25. To mitigate for loss of mixed hardwood forest and coast live oak woodland, permittee shall acquire the rights to a minimum of 380 acres of property in the immediate project vicinity to be preserved as open space and wildlife habitat. (0400500)

26. To mitigate for loss of valley oak woodland, permittee shall implement the Valley Oak Woodland Mitigation Plan as specified in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Attachment 9-B. (0400500)

27. To mitigate for construction staging area impacts, permittee shall implement the Construction Staging Area Mitigation Plan as specified in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Attachment 9-E. Monitoring shall occur for a period of 20 years to ensure success in meeting pre-established success criteria. The results of the monitoring program shall be submitted to the Chief, Division of Water Rights. Any modification in the mitigation plan is subject to the review and approval of the Chief, Division of Water Rights, subject to appropriate conditions. (0400700)

28. Prior to construction, permittee shall finalize the Riparian and Wetland Habitat Mitigation and Monitoring Plan for review and approval by resource agencies participating in the Interagency Vegetation Working Group and the Chief, Division of Water Rights. Permittee shall commence implementation of the final Plan within one year of construction completion. (0490500)
(0400700)

29. Prior to construction, permittee shall collect, clean, and place in cold storage seeds of the Douglas' Spineflower and the Lewis' Clarkia. Permittee shall apply the seeds to the construction staging area upon project completion along with the revegetation mix. (0400500)

30. Permittee shall maintain in good working order all riparian irrigation systems owned or operated by permittee under its Water Allocation Program Environmental Impact Report, 5-Year Mitigation Program (November 1990) for use as needed during dry or critically dry water years, as defined in Table C, when no flow is to be maintained at the lagoon, or under conditions of critically low storage in New Los Padres Reservoir when no flow is required at the Narrows. (0400500)

31. Permittee shall implement the Wildlife Habitat Monitoring Program outlined in the Monterey Peninsula Water Supply Project Final EIR/EIS, Volume III, Appendix 9-G until Application 27614 is licensed. Survey data and analysis of results shall be submitted annually to the Department of Fish and Game (DFG) for review and comment. If, after review, DFG determines need for mitigation, permittee shall within one year of such a finding, submit to the State Water Resources Control Board, Chief, Division of Water Rights, for review and approval a plan detailing specific measures which will be implemented. Upon approval by the Chief, Division of Water Rights, permittee shall implement the approved measures. (0490500)

32. Prior to construction, permittee shall in consultation with Department of Fish and Game and the National Marine Fisheries Service finalize the Spawning Habitat Mitigation Plan outlined in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Appendix 8-B. The plan shall be submitted to the State Water Resources Control Board, Chief, Division of Water Rights, for review and approval. Upon approval, the permittee shall implement the plan. (0400500)

33. During the final project design phase, and prior to solicitation of bids for construction, permittee shall, to the satisfaction of the Department of Fish and Game, the National Marine Fisheries Service and the State Water Resources Control Board, Chief, Division of Water Rights, finalize the Steelhead Fisheries Mitigation Plan found in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Attachment 8-A. Said plan shall establish a numerical goal against which the success of the plan may be measured. (0400500)

34. Permittee shall at all times maintain minimum instream flow at the lagoon, the Narrows, and below New Los Padres Dam as specified in Table A and Table B of this permit. The flow shall depend on hydrologic year type, season, and reservoir storage conditions. Hydrologic year types shall be based on the Water Supply Index as specified in Table C of this permit. Permittee shall incorporate a daily timestep in its hydrologic forecasting so that the Water Supply Index can be upgraded on a daily basis. (0400500)

35. Once the project authorized by this permit becomes operational, permittee shall assure that any water delivered to California American Water Company shall not result in surface water diversion to the San Clemente Filter plant in excess of 16 cfs in Normal or Better years, 5.6 cfs in Below Normal Years, and 3.5 cfs in Dry or Critically Dry years. (0060900)

36. Permittee shall continue to operate or install and properly maintain continuous flow measurement devices, satisfactory to the State Water Resources Control Board, at the following locations in the Carmel River:

- a. Carmel River at the Highway 1 bridge.
- b. Carmel River at the Don Juan bridge.
- c. Carmel River at Sleepy Hollow.
- d. Carmel River upstream and downstream of New Los Padres Reservoir at the fish screening facilities. (0560900)

37. Permittee shall submit annual reports to the State Water Resources Control Board, Chief, Division of Water Rights and Department of Fish and Game stating the mean daily flows at the five specified monitoring locations throughout the year. (0090900)

38. Once an attraction event has occurred, as defined in Table A, and Carmel River flow has decreased to 200 cubic feet per second at the lagoon, permittee shall "ramp down" the flows at the lagoon to prevent fish stranding. Permittee shall operate the New Los Padres Reservoir in a manner which reduces the measured flow at the Highway 1 Bridge by 15 percent or less in any 24-hour period.

(0400500)

PERMIT TABLE A

**MINIMUM INSTREAM FLOW REQUIREMENTS
BELOW NEW LOS PADRES DAM**

JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Normal or Better Years	Normal or Better Years	Normal or Better Years
Maintain 20 cfs below New Los Padres Dam for juvenile rearing until an attraction event occurs. Once an attraction event ³ occurs, maintain 50 cfs below New Los Padres Dam for migration, spawning, and incubation purposes.	Maintain 40 cfs below New Los Padres Dam for smolt emigration.	Maintain 20 cfs below New Los Padres Dam for juvenile rearing.
Below Normal Years	Below Normal Years	Below Normal Years
Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.
Dry Years	Dry Years	Dry Years
Same flow requirements as Normal or Better Years except that once an attraction event occurs, maintain 35 cfs below New Los Padres Dam for migration, spawning, and incubation purposes.	Maintain 30 cfs below New Los Padres Dam for smolt emigration.	If usable storage in New Los Padres Reservoir is greater than 5000 AF, maintain 20 cfs below New Los Padres Dam for juvenile rearing. If usable storage in New Los Padres Reservoir is less than 5000 AF, maintain 10 cfs below New Los Padres Dam for juvenile rearing.

PERMIT TABLE A		
MINIMUM INSTREAM FLOW REQUIREMENTS BELOW NEW LOS PADRES DAM		
JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Critically Dry Years	Critically Dry Years	Critically Dry Years
Same flow requirements as Normal or Better Years except that once an attraction events occurs, maintain 20 cfs below New Los Padres Dam for migration, spawning, and incubation purposes.	Maintain 20 cfs below New Los Padres Dam for smolt emigration.	Maintain 10 cfs below New Los Pares Dam for juvenile rearing.
Critically Low Storage	Critically Low Storage	Critically Low Storage
Maintain 5 cfs below New Los Padres and San Clemente Dams.	Maintain 5 cfs below New Los Padres and San Clemente Dams.	Maintain 5 cfs below New Los Padres and San Clemente Dams.

Note for Tables A, B and C:

1. Water Year classifications are based on the District Water Supply Index, computed from the reconstructed long-term record of unimpaired flow at the San Clemente Dam.
2. "Critically Low Storage" occurs whenever usable storage in New Los Padres Reservoir falls below 2,000 af and persists until usable storage exceeds 7,500 af.
3. An attraction event is defined as occurrence of 200 cfs at the Carmel River Lagoon.

PERMIT TABLE B

**MINIMUM INSTREAM FLOW REQUIREMENTS
AT CARMEL RIVER NARROWS AND LAGOON**

JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Normal or Better Years	Normal or Better Years	Normal or Better Years
<p>Maintain 5 cfs to the lagoon for juvenile rearing until an attraction event is projected.</p> <p>Whenever an attraction event is projected, maintain 200 cfs to the lagoon for the duration of the attraction event.</p> <p>Following an attraction event, provide migration flows of 200 to 60 cfs to the lagoon, depending on estimated natural recession rates.</p> <p>Following the migration period, maintain 40 cfs to the lagoon and 70 cfs at the Narrows for spawning.</p>	<p>Maintain 40 cfs to the lagoon for smolt emigration.</p>	<p>Maintain 5 cfs to the lagoon for juvenile rearing.</p>
Below Normal Years	Below Normal Years	Below Normal Years
Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.

PERMIT TABLE B

**MINIMUM INSTREAM FLOW REQUIREMENTS
AT CARMEL RIVER NARROWS AND LAGOON**

JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Dry Years	Dry Years	Dry Years
<p>Same flow requirements as Normal or Better Years except that:</p> <p>(1) Whenever an attraction event is projected, maintain either 200 cfs in January, 100 cfs in February, or 75 cfs in March to the lagoon for the duration of the attraction event.</p> <p>(2) Following the migration period, maintain 40 cfs to the lagoon and 50 cfs at the Narrows for spawning.</p>	<p>Maintain 30 cfs to the lagoon for smolt emigration.</p>	<p>Same flow requirements as Normal or Better Years except that:</p> <p>If usable storage in New Los Padres Reservoir is less than 5000 AF, maintain 10 cfs at the Narrows for juvenile rearing. No flow is required at the lagoon.</p>
Critically Dry Years	Critically Dry Years	Critically Dry Years
<p>Same flow requirements as Normal or Better Years except that:</p> <p>(1) Whenever an attraction event is projected, maintain either 200 cfs in January, 100 cfs in February, or 75 cfs in March to the lagoon for the duration of the attraction event.</p> <p>(2) Following the migration period, maintain 20 cfs to the lagoon and 30 cfs at the Narrows for spawning.</p>	<p>Maintain 20 cfs to the lagoon for smolt emigration.</p>	<p>Maintain 10 cfs at the Narrows for juvenile rearing. No flow is required at the lagoon.</p>

PERMIT TABLE B		
MINIMUM INSTREAM FLOW REQUIREMENTS AT CARMEL RIVER NARROWS AND LAGOON		
JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Critically Low Storage	Critically Low Storage	Critically Low Storage
Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon.	Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon.	Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon.

PERMIT TABLE C				
WATER YEAR SUPPLY INDEX CUMULATIVE UNIPAIED INFLOW AT NEW SAN CLEMENTE DAM (AF)				
	WATER YEAR CLASS			
	Normal or Better	Below Normal	Dry	Critically Dry
End of Oct	> 200	> 200-100	> 100-1	0
Oct-Nov	> 1,000	1,000-500	500-200	< 200
Oct-Dec	> 4,100	4,100-1,700	1,700-1,175	< 1,175
Oct-Jan	> 11,800	11,800-5,450	5,450-4,100	< 4,100
Oct-Feb	> 26,300	26,300-14,400	14,400-7,550	< 7,550
Oct-Mar	> 39,100	39,100-21,950	21,950-10,925	< 10,925
Oct-Apr	> 46,400	46,400-28,300	28,300-12,975	< 12,975
Oct-May	> 47,400	47,400-30,650	30,650-14,425	< 14,425
Oct-Jun	> 48,000	48,000-31,550	31,550-14,900	< 14,900
Oct-Jul	> 48,100	48,100-31,700	31,700-14,925	< 14,925
Oct-Aug	> 48,100	48,100-31,750	31,750-14,925	< 14,925

NOTE: Classes derived from monthly unimpaired flows to San Clemente Dam for the period of 1902-1978. (MPWMD:289, A-5,23.)

39. Until the project authorized by this permit becomes fully operational, permittee shall continue to negotiate with California American Water Company and the Department of Fish and Game to maintain, insofar as possible a minimum 5 cfs bypass flow below San Clemente Dam as measured at the Sleepy Hollow weir.

(0400500)

40. To prevent stranding of spring and fall steelhead juveniles and smolts during critically dry conditions, permittee shall continue to implement the fisheries measures outlined in the Water Allocation Mitigation Program as described in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume III, Appendix 2-D.

(0400500)

41. Permittee shall, in consultation with the Department of Fish and Game, design and construct upstream and downstream fish passage facilities for the New Los Padres Project. The design plans shall be submitted to the State Water Resources Control Board, Chief, Division of Water Rights, prior to commencement of construction of fish passage facilities. The permittee shall fully fund the construction and continued operation of the upstream and downstream fish passage facilities. An annual Memorandum on Understanding (MOU) shall be executed between the permittee and the Department of Fish and Game defined operation of the fish passage facilities. Permittee shall record and maintain records of numbers of adult and juvenile steelhead trapped and transported by the facilities. The MOU shall be submitted to the State Water Resources Control Board, Chief, Division of Water Rights, annually.

(0400500)
(0090700)

42. Permittee shall, in consultation with the Department of Fish and Game and the National Marine Fisheries Service, develop a formal Remedial Action Plan to address problems which may occur with the fish passage facilities. Should the facilities prove unsuccessful, the State Water Resources Control Board may, under its continuing jurisdiction, alter the project instream flow schedule (Tables A and B) to increase habitat below the dam.

(0400500)

43. Should the Carmel River steelhead become listed as threatened or endangered under either the State or the Federal Endangered Species Acts prior to construction of the works authorized by this permit, permittee shall seek a formal biological opinion from the trustee agency and implement additional feasible mitigation measures identified in said opinion.

(0400500)

44. Prior to construction, permittee shall, in consultation with the Department of Fish and Game, conduct additional investigations to further define the instream flow requirements in the reach immediately downstream of the New Los Padres Dam. Permittee shall prepare a final report of these investigations and submit the report to the Department of Fish and Game and the State Water Resources Control Board. Under its continuing authority, after notice and opportunity for hearing, the State Water Resources Control Board may modify the fishery bypass flows in this permit, based upon the results of said investigations.

(0400500)

45. During the final project design phase, and prior to solicitation of bids for construction, permittee shall provide documentation to the State Water Resources Control Board that sufficient long-term financial resources have been committed to fund all mitigation measures specified in this permit to assure their continuing, full implementation.

(0470500)

46. Permittee shall, in consultation with the Department of Fish and Game, conduct studies to determine the effectiveness of fish rescue operations specified in the Water Allocation Mitigation Program and the Steelhead Resource Mitigation Plan. The results shall be submitted to the State Water Resources Control Board, Chief, Division of Water Rights, for review and approval.

(0400500)

47. Permittee shall annually monitor the volume of the Carmel River Lagoon and actual sand transport into the lagoon. Annual reports shall be submitted to the California Department of Parks and Recreation, Department of Fish and Game, and the State Water Resources Control Board, Chief, Division of Water Rights for review. Such monitoring shall take place for a period of 20 years, after which the program shall be evaluated. If increased sediment transport is observed, the permittee shall, in consultation with the Department of Parks and Recreation and the Department of Fish and Game, evaluate the significance of the impacts and initiate a program to prevent reduction in habitat value.

(0400500)

48. For the protection of historic properties, including both prehistoric/ethnohistoric archeological resources and traditional cultural properties, permittee shall adhere to the May 2, 1995 *"Programmatic Agreement Among the U.S. Army Corps of Engineers, San Francisco District, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Issuance of a Permit Under Section 404 of the Clean Water Act for the New Los Padres Dam and Reservoir Project."* Permittee shall continue to consult with the U.S. Army Corps of Engineers, the State Water Resources Control Board, the State Historic Preservation Officer, the Advisory Council on Historic Preservation, and the Native Americans regarding cultural resources until all stipulations of the Programmatic Agreement and resultant Historic Properties Management Plan and any Historic Properties Treatment Plans have been completed to the satisfaction of all the parties. Any modifications to the Programmatic Agreement are subject to the approval of the Chief of the Division of Water Rights. The permittee shall also comply with the *"Procedure for the Protection of Historic and Cultural Properties"* (36 CFR 60) and the implementing regulations of the Advisory Council on Historic Preservation 36, CFR 800.

(0380500)

49. Permittee shall implement the mitigation measures regarding the archeological and traditional properties of importance to the Native Americans that result from the National Historic Preservation Act Section 106 process as set forth in the Historic Properties Management Plans and the Historic Properties Treatment Plans in the special permit term regarding the Programmatic Agreement.

(0380700)

50. Permittee shall submit an annual progress report regarding cultural resources to the State Water Resources Control Board, Chief, Division of Water Rights, until such time that the cultural resource work has been completed or this permit is licensed.

(0380700)

51. The State Water Resources Control Board reserves jurisdiction to require the permittee to implement such additional mitigation measures for protection of traditional cultural properties as may be necessary in the event the results of the National Historic Preservation Act Section 106 process does not meet with the satisfaction of the State Water Resources Control Board.

(0380600)

52. For the protection of historic properties including both prehistoric/ethnohistoric archeological resources and traditional cultural properties of importance to the Native Americans, permittee shall include the Native Americans as participants in the National Historic Preservation Act Section 106 process as specified in the Programmatic Agreement and the Memorandum of Understanding which were executed by the Tribe, the Nation, the District, and the U.S. Army Corps of Engineers.

(0380300)

53. Any mitigation measures that result from the process outlined in the Programmatic Agreement and in the Memorandums of Understanding, with the Esselen Tribe and Nation, are subject to the approval of the State Water Resources Control Board. If these measures are acceptable to the Chief, Division of Water Rights, permittee shall be responsible for full implementation of these measures.

(0380500)

(0490500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

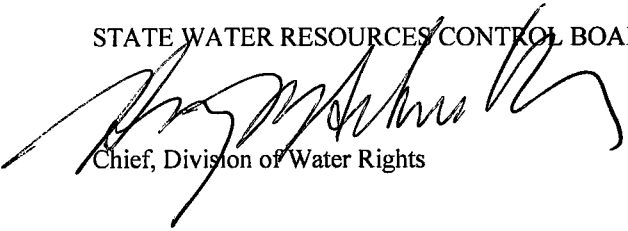
Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

JAN 06 1999

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights

Application 27614 Permit 20808 License

ORDER CORRECTING DECISION 1632
DATED JULY 6, 1995

AND PERMIT 20808
ISSUED OCTOBER 25, 1995

WHEREAS:

1. Decision 1632 was approved by the State Water Resources Control Board on July 6, 1995. The decision approves issuance of a permit pursuant to Application 27614 of Monterey Peninsula Water Management District (MPWMD) for construction of the New Los Padres Reservoir Project on the Carmel River in Monterey County.
2. Permit 20808 was issued pursuant to Decision 1632 on October 25, 1995.
3. Decision 1632 and Permit 20808 contain Permit Tables A, B and C which describe the instream flow requirements and related water year supply index. The three tables contain typographical errors.
4. Permit Table A, "Minimum Instream Flow Requirements Below New Los Padres Dam", contains an error in the dry year requirements for the column titled "January-March". The flow requirement is listed as 20 cubic feet per second (cfs) below New Los Padres Dam. The correct flow requirement is 35 cfs, based upon MPWMD Supplemental EIR, page 4-25.
5. Permit Table B, "Minimum Instream Flow Requirements At Carmel River Narrows and Lagoon", contains an error in the critically dry year requirements for the column titled "January-March". The flow requirement is listed as 40 cfs to the lagoon. The correct flow requirement is 20 cfs, based upon MPWMD Supplemental EIR, page 4-26.
6. Permit 20808 is missing information in Permit Table C, in the columns titled "Below Normal" and "Dry." The Order revises the permit to include the information from Decision 1632 in these columns.
7. The Chief, Division of Water Rights (Division) is delegated the authority to correct typographical errors in decisions approved by the SWRCB and permits issued by the Division.

NOW, THEREFORE, IT IS ORDERED THAT:

Permit Tables A, B and C of Decision 1632, adopted July 6, 1995 and Permit 20808, issued October 25, 1995 are hereby revised as shown. The approved additions to both Decision 1632 and Permit 20808 are indicated by underline and the deletions are indicated by ~~strikeout~~. The omitted material related solely to Permit 20808 is indicated by double underline.

PERMIT TABLE A		
MINIMUM INSTREAM FLOW REQUIREMENTS BELOW NEW LOS PADRES DAM		
JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Normal or Better Years	Normal or Better Years	Normal or Better Years
Maintain 20 cfs below New Los Padres Dam for juvenile rearing until an attraction event occurs. Once an attraction event ³ occurs, maintain 50 cfs below New Los Padres Dam for migration, spawning, and incubation purposes.	Maintain 40 cfs below New Los Padres Dam for smolt emigration.	Maintain 20 cfs below New Los Padres Dam for juvenile rearing.
Below Normal Years	Below Normal Years	Below Normal Years
Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.
Dry Years	Dry Years	Dry Years
Same flow requirements as Normal or Better Years except that once an attraction event occurs, maintain 20 <u>35</u> cfs below New Los Padres Dam for migration, spawning, and incubation purposes.	Maintain 30 cfs below New Los Padres Dam for smolt emigration.	If usable storage in New Los Padres Reservoir is greater than 5000 AF, maintain 20 cfs below New Los Padres Dam for juvenile rearing. If usable storage in New Los Padres Reservoir is less than 5000 AF, maintain 10 cfs below New Los Padres Dam for juvenile rearing.

Critically Dry Years	Critically Dry Years	Critically Dry Years
Same flow requirements as Normal or Better Years except that once an attraction event occurs, maintain 20 cfs below New Los Padres Dam for migration, spawning, and incubation purposes.	Maintain 20 cfs below New Los Padres Dam for smolt emigration.	Maintain 10 cfs below New Los Padres Dam for juvenile rearing.
Critically Low Storage	Critically Low Storage	Critically Low Storage
Maintain 5 cfs below New Los Padres and San Clemente Dams.	Maintain 5 cfs below New Los Padres and San Clemente Dams.	Maintain 5 cfs below New Los Padres and San Clemente Dams.

PERMIT TABLE B		
MINIMUM INSTREAM FLOW REQUIREMENTS AT CARMEL RIVER NARROWS AND LAGOON		
JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Normal or Better Years	Normal or Better Years	Normal or Better Years
<p>Maintain 5 cfs to the lagoon for juvenile rearing until an attraction event is projected.</p> <p>Whenever an attraction event is projected, maintain 200 cfs to the lagoon for the duration of the attraction event.</p> <p>Following an attraction event, provide migration flows of 200 to 60 cfs to the lagoon, depending on estimated natural recession rates.</p> <p>Following the migration period, maintain 40 cfs to the lagoon and 70 cfs at the Narrows for spawning.</p>	<p>Maintain 40 cfs to the lagoon for smolt emigration.</p>	<p>Maintain 5 cfs to the lagoon for juvenile rearing.</p>

PERMIT TABLE B

**MINIMUM INSTREAM FLOW REQUIREMENTS
AT CARMEL RIVER NARROWS AND LAGOON**

JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Below Normal Years	Below Normal Years	Below Normal Years
Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.
Dry Years	Dry Years	Dry Years
<p>Same flow requirements as Normal or Better Years except that:</p> <p>(1) Whenever an attraction event is projected, maintain either 200 cfs in January, 100 cfs in February, or 75 cfs in March to the lagoon for the duration of the attraction event.</p> <p>(2) Following the migration period, maintain 40 cfs to the lagoon and 50 cfs at the Narrows for spawning.</p>	Maintain 30 cfs to the lagoon for smolt emigration.	<p>Same flow requirements as Normal or Better Years except that:</p> <p>If usable storage in New Los Padres Reservoir is less than 5000 AF, maintain 10 cfs at the Narrows for juvenile rearing. No flow is required at the lagoon.</p>

PERMIT TABLE B		
MINIMUM INSTREAM FLOW REQUIREMENTS AT CARMEL RIVER NARROWS AND LAGOON		
JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
<p>Critically Dry Years</p> <p>Same flow requirements as Normal or Better Years except that:</p> <p>(1) Whenever an attraction event is projected, maintain either 200 cfs in January, 100 cfs in February, or 75 cfs in March to the lagoon for the duration of the attraction event.</p> <p>(2) Following the migration period, maintain 40 20 cfs to the lagoon and 30 cfs at the Narrows for spawning.</p>	<p>Critically Dry Years</p> <p>Maintain 20 cfs to the lagoon for smolt emigration.</p>	<p>Critically Dry Years</p> <p>Maintain 10 cfs at the Narrows for juvenile rearing. No flow is required at the lagoon.</p>
<p>Critically Low Storage</p> <p>Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon.</p>	<p>Critically Low Storage</p> <p>Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon.</p>	<p>Critically Low Storage</p> <p>Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon.</p>

PERMIT TABLE C				
WATER YEAR SUPPLY INDEX CUMULATIVE UNIMPAIRED INFLOW AT NEW SAN CLEMENTE DAM (AF)				
	WATER YEAR CLASS			
	Normal or Better	Below Normal	Dry	Critically Dry
End of Oct	> 200	> 200 - 100	> 100 - 1	0
Oct-Nov	> 1,000	1,000 - 500	500 - 200	< 200
Oct-Dec	> 4,100	4,100 - 1,700	1,700 - 1,175	< 1,175
Oct-Jan	> 11,800	11,800 - <u>5,450</u>	5,450 - 4,100	< 4,100
Oct-Feb	> 26,300	26,300 - <u>14,400</u>	14,400 - 7,550	< 7,550
Oct-Mar	> 39,100	39,100 - <u>21,950</u>	21,950 - <u>10,925</u>	< 10,925
Oct-Apr	> 46,400	46,400 - <u>28,300</u>	28,300 - <u>12,975</u>	< 12,975
Oct-May	> 47,400	47,400 - <u>30,650</u>	30,650 - <u>14,425</u>	< 14,425
Oct-Jun	> 48,000	48,000 - <u>31,550</u>	31,550 - <u>14,900</u>	< 14,900
Oct-Jul	> 48,100	48,100 - <u>31,700</u>	31,700 - <u>14,925</u>	< 14,925
Oct-Aug	> 48,100	48,100 - <u>31,750</u>	31,750 - <u>14,925</u>	< 14,925

NOTE: Classes derived from monthly unimpaired flows to San Clemente Dam for the period of 1902-1978. (MPWMD:289,A-5,23.)

Dated: DEC 29 1995

ORIGINAL SIGNED BY:

Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20808

Application 27614 of Monterey Peninsula Water Management District,

187 El Dorado Street, Monterey, CA 93942-0085

filed on December 16, 1982, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1,2) Carmel River

Pacific Ocean

(3-34) Carmel River subterannean stream

Pacific Ocean

2. Location of points of diversion and redirection:	40-acre subdivision of public land survey or projection thereof	Projected Section	Township	Range	Base and Meridian
1. New Los Padres Dam (Point of Diversion) 2,100 feet North and 200 feet West of SE corner of Section 5	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	5	18S	3E	MD
2. San Clemente Dam (Point of Rediversion) 1,700 feet North and 100 feet East of SW corner of Section 24	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	24	17S	2E	MD
Points of diversion and Rediversion: 3. Reimers Well 2,300 feet North and 1,800 feet East from SW corner of Section 23	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	23	16S	1E	MD
4. Pryor Well 1,700 feet North and 2,400 feet East from SW corner of Section 23	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	23	16S	1E	MD
5. Scarlett Well 700 feet North and 100 feet East from SW corner of Section 19	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	9	16S	2E	MD

6. De Dampierre Well 1,600 feet North and 1,400 feet East from SW corner of Section 3	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	3	17S	2E	MD
7. Cañada Well 2,000 feet North and 2,000 feet East from SW corner of Section 17	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	17	16S	1E	MD
8. San Carlos Well 1,700 feet North and 900 feet West from SE corner of Section 17	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	17	16S	1E	MD
9. Cypress Well 2,200 feet South and 600 feet East from NW corner of Section 22	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	22	16S	1E	MD
10. Pearce Well 2,500 feet South and 2,200 feet East from NW corner of Section 22	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	22	16S	1E	MD
11. Schulte Well 2,300 feet South and 100 feet East from NW corner of Section 23	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	23	16S	1E	MD
12. Manor #2 Well 2,000 feet North and 2,100 feet East from SW corner of Section 23	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	23	16S	1E	MD
13. Begonia #2 Well 1,300 feet North and 300 feet East from SW corner of Section 24	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	24	16S	1E	MD
14. Berwick #7 Well 200 feet North and 800 feet East from SW corner of Section 24	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	24	16S	1E	MD
15. Berwick #8 Well 300 feet North and 1,700 feet East from SW corner of Section 24	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	24	16S	1E	MD
16. Scarlett #6 Well 400 feet North and 1,000 feet East from SW corner of Section 19	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	19	16S	2E	MD
17. Scarlett #8 Well 400 feet North and 900 feet East from SW corner of Section 19	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	19	16S	2E	MD
18. Stanton Well 1,200 feet South and 2,100 feet from NE corner of Section 30	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	30	16S	2E	MD
19. Los Laureles #5 1,700 feet North and 2,500 feet West from SE corner of Section 29	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	29	16S	2E	MD
20. Los Laureles #6 900 feet North and 700 feet West from SE corner of Section 29	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	29	16S	2E	MD

21. West Garzas #4 2,200 feet North and 2,000 feet East from SW corner of Section 33	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	33	16S	2E	MD
22. Garzas Creek #3 500 feet North and 1,900 feet West from SE corner of Section 23	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	33	16S	2E	MD
23. Panetta #2 Well 800 feet South and 200 feet East from NW corner of Section 3	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	3	17S	2E	MD
24. Panetta #1 Well 1,000 feet South and 100 feet East from NW corner of Section 3	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	3	17S	2E	MD
25. Robles #3 Well 600 feet South and 100 feet West from NE corner of Section 10	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	10	17S	2E	MD
26. Russell #4 Well 0 feet South and 800 feet West from NE corner of Section 14	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	14	17S	2E	MD
27. Russell #2 Well 400 feet South and 800 feet West from NE corner of Section 14	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	14	17S	2E	MD
28. A Well 800 feet North and 1,800 feet West from SE corner of Section 13	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	13	16S	1W	MD
29. B Well 1,700 feet North and 1,800 feet West from SW corner of Section 18	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	18	16S	1E	MD
30. C Well 2,600 feet South and 500 feet East from NW corner of Section 22	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	22	16S	1E	MD
31. D Well 2,500 feet South and 100 feet East from NW corner of Section 23	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	23	16S	1E	MD
32. E Well 700 feet North and 2,300 feet West from SE corner of Section 24	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	24	16S	1E	MD
33. F Well 1,300 feet South and 200 feet East from NW corner of Section 3	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	3	17S	2E	MD
34. G Well 2,600 feet South and 1,000 feet East from NW corner of Section 3	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	3	17S	2E	MD

County of Monterey

Application 27614

Permit 20808

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Municipal Irrigation Fish and Wildlife	110,000 acres within the boundaries of the Monterey Peninsula Water Management District					

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 42 cubic feet per second by direct diversion and 24,000 acre-feet per annum by storage from November 1 of each year through June 30 of the succeeding year.

The total amount of water to be taken from the source shall not exceed 29,000 acre-feet from November 1 of each year through June 30 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within four years of the date of this permit and thereafter shall be prosecuted with reasonable diligence. (0000007)

8. Construction work shall be completed by December 31, 2003. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 2020. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1)adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2)the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

14. This permit shall not be construed as conferring upon permittee right of access to the point of diversion.

(0000022)

15. Permittee's rights under this permit are junior to the rights of persons diverting water for reasonable beneficial use under valid and properly exercised riparian, overlying, and pre- and post-1914 appropriative claims of right which have a priority which is superior to the priority of Application 27614.

(050T001)

16. The priority of this permit shall be junior to any permit issued on the applications set forth in Table 13 of Decision 1632 or for the persons named in Table 13 of Decision 1632 for an amount of water not to exceed the quantity set forth in the column titled "*Quantity Reserved by SWRCB For Future Appropriation*". Applicants can request the State Water Resources Control Board (SWRCB) to modify the amounts in this column in accordance with the procedures in this condition.

Persons identified in Table 13 of Decision 1632 that have not filed an application to appropriate water must file an application by December 29, 1995 to benefit from this condition. To the extent such applicants and persons claim riparian, overlying, pre-1914 appropriative or other rights to use the water, they shall not be entitled to a post-1914 appropriative right for water in excess of established quantities of use as a result of this permit condition. Any priority obtained for a permit by virtue of this condition shall be void if the permittee and/or others divert more water under the permit and claimed underlying rights than is authorized on the face of the permit; however, the priority shall not be voided for the diversion of de minimis amounts which can reasonably be attributed to operational uncertainties.

Upon request by an applicant, a protestant, or the District, notification to the District and petitioner, and opportunity for comment, the SWRCB will review whether the amount set forth in the column entitled "*Quantity Reserved by SWRCB For Future Appropriations*" should be increased or decreased, at such time as an application is processed; however, no reconsideration will be provided for amounts based upon a stipulation between the District and an applicant, except in those instances where the stipulation is subsequently revised or new stipulation is entered into by the District with respect to Table 13 quantities.

Request for review shall be submitted and accompanied by prima facie evidence of established quantities of use to the Chief, Division of Water Rights, on or before December 29, 1995. Requests for review submitted after this date shall not be considered. The criterion for review shall be whether the applicant had an established reasonable beneficial use of water and the amount of such use on or before November 22, 1994. Recorded water use shall be based either on records of meter readings or well production records. Only recorded water use for the period January 1, 1987 through November 22, 1994 shall be considered. Limited meter readings are available for the Carmel River Valley beginning in 1987. The Chief, Division of Water Rights, is delegated authority to modify the quantities identified in Table 13 of Decision 1632. This condition is not a restriction on exercise of valid riparian, pre-1914 appropriative, or post-1914 appropriative rights which are senior to the permit issued pursuant to Application 27614, or valid rights to diversion of percolating ground water.

(016T001)
(0500700)

17. Permittee shall not divert water under this permit unless and until California American Water Company (Cal-Am) has obtained an alternative supply of water for its illegal diversions from the Carmel River. A contract with permittee to obtain water made available under this permit is one means by which Cal-Am can obtain a legal supply of water in lieu of its existing diversions. (0360900)

18. The New Los Padres Dam is of such size as to be within the jurisdiction of the Department of Water Resources as to safety, and construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam. (0360048)

19. Permittee shall consult with the Division of Water Rights and develop, in conformance with Water Code Section 10610, et seq., and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein. (000029B)

20. The permittee shall prepare an Erosion Control Plan. The plan shall be submitted to the Chief of the Division of Water Rights, State Water Resources Control Board, for approval prior to project construction. (0400500)

21. In accordance with Sections 1601, 1603, and/or Section 6100 of the California Fish and Game Code, no work shall be started on the diversion and no water shall be diverted under this permit until permittee has entered into a stream alteration agreement with the California Department of Fish and Game (DFG) and/or the DFG has determined that measures to protect fishlife have been incorporated into plans for the construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

22. Prior to construction, permittee shall develop and implement a program in consultation with the California Department of Fish and Game (DFG) to monitor changes in channel capacity and growth of riparian vegetation downstream of the project. The program shall be submitted to the Chief, Division of Water Rights, for approval prior to initiation of construction activities. Changes shall be monitored for a period of 20 years from issuance of Permit after which time the program will be re-evaluated. Permittee shall submit the results of the monitoring program to the State Water Resources Control Board (SWRCB) and DFG annually with the Progress Report by permittee.

If reduction in pre-project main stem channel capacity is confirmed, or changes in channel geometry increase the risk of bank erosion, and if inspection of sediment deposition indicates fishery habitat degradation, permittee in consultation with SWRCB, DFG and other responsible resource agencies, shall devise and implement measures to correct the adverse changes. (0490500)
(0110700)

23. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Coast Region, or by the State Water Resources Control Board.

(0000100)

24. For protection of the downstream fishery, permittee shall install and operate a multilevel intake structure on the outlet works of the New Los Padres Dam. The structure shall be designed to provide temperature control and maximum reaeration of released water. The design of the intake structure shall be approved by the Department of Fish and Game prior to project construction.

(0400500)

25. To mitigate for loss of mixed hardwood forest and coast live oak woodland, permittee shall acquire the rights to a minimum of 380 acres of property in the immediate project vicinity to be preserved as open space and wildlife habitat.

(0400500)

26. To mitigate for loss of valley oak woodland, permittee shall implement the Valley Oak Woodland Mitigation Plan as specified in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Attachment 9-B.

(0400500)

27. To mitigate for construction staging area impacts, permittee shall implement the Construction Staging Area Mitigation Plan as specified in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Attachment 9-E. Monitoring shall occur for a period of 20 years to ensure success in meeting pre-established success criteria. The results of the monitoring program shall be submitted to the Chief, Division of Water Rights. Any modification in the mitigation plan is subject to the review and approval of the Chief, Division of Water Rights, subject to appropriate conditions.

(0400500)

(0400700)

28. Prior to construction, permittee shall finalize the Riparian and Wetland Habitat Mitigation and Monitoring Plan for review and approval by resource agencies participating in the Interagency Vegetation Working Group and the Chief, Division of Water Rights. Permittee shall commence implementation of the final Plan within one year of construction completion.

(0400500)

(0490500)

29. Prior to construction, permittee shall collect, clean, and place in cold storage seeds of the Douglas' Spineflower and the Lewis' Clarkia. Permittee shall apply the seeds to the construction staging area upon project completion along with the revegetation mix.

(0400500)

30. Permittee shall maintain in good working order all riparian irrigation systems owned or operated by permittee under its Water Allocation Program Environmental Impact Report, 5-Year Mitigation Program (November 1990) for use as needed during dry or critically dry water years, as defined in Table C, when no flow is to be maintained at the lagoon, or under conditions of critically low storage in New Los Padres Reservoir when no flow is required at the Narrows.

(0400500)

31. Permittee shall implement the Wildlife Habitat Monitoring Program outlined in the Monterey Peninsula Water Supply Project Final EIR/EIS, Volume III, Appendix 9-G until Application 27614 is licensed. Survey data and analysis of results shall be submitted annually to the Department of Fish and Game (DFG) for review and comment. If, after review, DFG determines need for mitigation, permittee shall within one year of such a finding, submit to the State Water Resources Control Board, Chief, Division of Water Rights, for review and approval a plan detailing specific measures which will be implemented. Upon approval by the Chief, Division of Water Rights, permittee shall implement the approved measures. (0400500)
(0490500)

32. Prior to construction, permittee shall in consultation with Department of Fish and Game and the National Marine Fisheries Service finalize the Spawning Habitat Mitigation Plan outlined in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Appendix 8-B. The plan shall be submitted to the State Water Resources Control Board, Chief, Division of Water Rights, for review and approval. Upon approval, the permittee shall implement the plan. (0400500)

33. During the final project design phase, and prior to solicitation of bids for construction, permittee shall, to the satisfaction of the Department of Fish and Game, the National Marine Fisheries Service and the State Water Resources Control Board, Chief, Division of Water Rights, finalize the Steelhead Fisheries Mitigation Plan found in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Attachment 8-A. Said plan shall establish a numerical goal against which the success of the plan may be measured. (0400500)

34. Permittee shall at all times maintain minimum instream flow at the lagoon, the Narrows, and below New Los Padres Dam as specified in Table A and Table B of this permit. The flow shall depend on hydrologic year type, season, and reservoir storage conditions. Hydrologic year types shall be based on the Water Supply Index as specified in Table C of this permit. Permittee shall incorporate a daily timestep in its hydrologic forecasting so that the Water Supply Index can be upgraded on a daily basis. (0400500)

35. Once the project authorized by this permit becomes operational, permittee shall assure that any water delivered to California American Water Company shall not result in surface water diversion to the San Clemente Filter Plant in excess of 16 cfs in Normal or Better years, 5.6 cfs in Below Normal Years, and 3.5 cfs in Dry or Critically Dry years. (0060900)

36. Permittee shall continue to operate or install and properly maintain continuous flow measurement devices, satisfactory to the State Water Resources Control Board, at the following locations in the Carmel River:

- a. Carmel River at the Highway 1 bridge.
- b. Carmel River at the Don Juan bridge.
- c. Carmel River at Sleepy Hollow.
- d. Carmel River upstream and downstream of New Los Padres Reservoir at the fish screening facilities. (0560900)

37. Permittee shall submit annual reports to the State Water Resources Control Board, Chief, Division of Water Rights and the Department of Fish and Game stating the mean daily flows at the five specified monitoring locations throughout the year. (0090900)

38. Once an attraction event has occurred, as defined in Table A, and Carmel River flow has decreased to 200 cubic feet per second at the lagoon, permittee shall "ramp down" the flows at the lagoon to prevent fish stranding. Permittee shall operate the New Los Padres Reservoir in a manner which reduces the measured flow at the Highway 1 Bridge by 15 percent or less in any 24-hour period. (0400500)

PERMIT TABLE A		
MINIMUM INSTREAM FLOW REQUIREMENTS BELOW NEW LOS PADRES DAM		
JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Normal or Better Years	Normal or Better Years	Normal or Better Years
Maintain 20 cfs below New Los Padres Dam for juvenile rearing until an attraction event occurs. Once an attraction event ³ occurs, maintain 50 cfs below New Los Padres Dam for migration, spawning, and incubation purposes.	Maintain 40 cfs below New Los Padres Dam for smolt emigration.	Maintain 20 cfs below New Los Padres Dam for juvenile rearing.
Below Normal Years	Below Normal Years	Below Normal Years
Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.	Same flow requirements as Normal or Better Years.
Dry Years	Dry Years	Dry Years
Same flow requirements as Normal or Better Years except that once an attraction event occurs, maintain 20 cfs below New Los Padres Dam for migration, spawning, and incubation purposes.	Maintain 30 cfs below New Los Padres Dam for smolt emigration.	If usable storage in New Los Padres Reservoir is greater than 5000 AF, maintain 20 cfs below New Los Padres Dam for juvenile rearing. If usable storage in New Los Padres Reservoir is less than 5000 AF, maintain 10 cfs below New Los Padres Dam for juvenile rearing.

PERMIT TABLE A		
MINIMUM INSTREAM FLOW REQUIREMENTS BELOW NEW LOS PADRES DAM		
JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Critically Dry Years	Critically Dry Years	Critically Dry Years
Same flow requirements as Normal or Better Years except that once an attraction event occurs, maintain 20 cfs below New Los Padres Dam for migration, spawning, and incubation purposes.	Maintain 20 cfs below New Los Padres Dam for smolt emigration.	Maintain 10 cfs below New Los Padres Dam for juvenile rearing.
Critically Low Storage	Critically Low Storage	Critically Low Storage
Maintain 5 cfs below New Los Padres and San Clemente Dams.	Maintain 5 cfs below New Los Padres and San Clemente Dams.	Maintain 5 cfs below New Los Padres and San Clemente Dams.

Notes for Tables A, B and C:

- 1. Water Year classifications are based on the District Water Supply Index, computed from the reconstructed long-term record of unimpaired flow at the San Clemente Dam.*
- 2. "Critically Low Storage" occurs whenever usable storage in New Los Padres Reservoir falls below 2,000 af and persists until usable storage exceeds 7,500 af.*
- 3. An attraction event is defined as occurrence of 200 cfs at the Carmel River Lagoon.*

PERMIT TABLE B		
MINIMUM INSTREAM FLOW REQUIREMENTS AT CARMEL RIVER NARROWS AND LAGOON		
JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
<p>Normal or Better Years</p> <p>Maintain 5 cfs to the lagoon for juvenile rearing until an attraction event is projected.</p> <p>Whenever an attraction event is projected, maintain 200 cfs to the lagoon for the duration of the attraction event.</p> <p>Following an attraction event, provide migration flows of 200 to 60 cfs to the lagoon, depending on estimated natural recession rates.</p> <p>Following the migration period, maintain 40 cfs to the lagoon and 70 cfs at the Narrows for spawning.</p>	<p>Normal or Better Years</p> <p>Maintain 40 cfs to the lagoon for smolt emigration.</p>	<p>Normal or Better Years</p> <p>Maintain 5 cfs to the lagoon for juvenile rearing.</p>
Below Normal Years	Below Normal Years	Below Normal Years
Same flow requirements as Normal or Better Years	Same flow requirements as Normal or Better Years	Same flow requirements as Normal or Better Years

PERMIT TABLE B

**MINIMUM INSTREAM FLOW REQUIREMENTS
AT CARMEL RIVER NARROWS AND LAGOON**

JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
<p align="center">Dry Years</p> <p>Same flow requirements as Normal or Better Years except that:</p> <p>(1) Whenever an attraction event is projected, maintain either 200 cfs in January, 100 cfs in February, or 75 cfs in March to the lagoon for the duration of the attraction event.</p> <p>(2) Following the migration period, maintain 40 cfs to the lagoon and 50 cfs at the Narrows for spawning.</p>	<p align="center">Dry Years</p> <p>Maintain 30 cfs to the lagoon for smolt emigration.</p>	<p align="center">Dry Years</p> <p>Same flow requirements as Normal or Better Years except that:</p> <p>If usable storage in New Los Padres Reservoir is less than 5000 AF, maintain 10 cfs at the Narrows for juvenile rearing. No flow is required at the lagoon.</p>
<p align="center">Critically Dry Years</p> <p>Same flow requirements as Normal or Better Years except that:</p> <p>(1) Whenever an attraction event is projected, maintain either 200 cfs in January, 100 cfs in February, or 75 cfs in March to the lagoon for the duration of the attraction event.</p> <p>(2) Following the migration period, maintain 40 cfs to the lagoon and 30 cfs at the Narrows for spawning.</p>	<p align="center">Critically Dry Years</p> <p>Maintain 20 cfs to the lagoon for smolt emigration.</p>	<p align="center">Critically Dry Years</p> <p>Maintain 10 cfs at the Narrows for juvenile rearing. No flow is required at the lagoon.</p>

PERMIT TABLE B		
MINIMUM INSTREAM FLOW REQUIREMENTS AT CARMEL RIVER NARROWS AND LAGOON		
JANUARY-MARCH	APRIL-MAY	JUNE-DECEMBER
Critically Low Storage	Critically Low Storage	Critically Low Storage
Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon.	Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon.	Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon.

PERMIT TABLE C				
WATER YEAR SUPPLY INDEX CUMULATIVE UNIMPAIRED INFLOW AT NEW SAN CLEMENTE DAM (AF)				
	WATER YEAR CLASS			
	Normal or Better	Below Normal	Dry	Critically Dry
End of Oct	>200	> 200 - 100	>100 - 1	0
Oct-Nov	> 1,000	1,000 - 500	500 - 200	< 200
Oct-Dec	> 4,100	4,100 - 1,700	1,700 - 1,175	< 1,175
Oct-Jan	> 11,800	11,800 -	5,450 - 4,100	< 4,100
Oct-Feb	> 26,300	26,300 -	14,400 - 7,550	< 7,550
Oct-Mar	> 39,100	39,100 -	21,950 -	< 10,925
Oct-Apr	> 46,400	46,400 -	28,300 -	< 12,975
Oct-May	> 47,400	47,400 -	30,650 -	< 14,425
Oct-Jun	> 48,000	48,000 -	31,550 -	< 14,900
Oct-Jul	> 48,100	48,100 -	31,700 -	< 14,925
Oct-Aug	> 48,100	48,100 -	31,750 -	< 14,925

NOTE: Classes derived from monthly unimpaired flows to San Clemente Dam for the period of 1902-1978. (MPWMD:289,A-5,23.)

39. Until the project authorized by this permit becomes fully operational, permittee shall continue to negotiate with California American Water Company and the Department of Fish and Game to maintain, insofar as possible a minimum 5 cfs bypass flow below San Clemente Dam as measured at the Sleepy Hollow weir. (0400500)

40. To prevent stranding of spring and fall steelhead juveniles and smolts during critically dry conditions, permittee shall continue to implement the fisheries measures outlined in the Water Allocation Mitigation Program as described in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume III, Appendix 2-D. (0400500)

41. Permittee shall, in consultation with the Department of Fish and Game, design and construct upstream and downstream fish passage facilities for the New Los Padres Project. The design plans shall be submitted to the State Water Resources Control Board, Chief, Division of Water Rights, prior to commencement of construction of fish passage facilities. The permittee shall fully fund the construction and continued operation of the upstream and downstream fish passage facilities. An annual Memorandum of Understanding (MOU) shall be executed between the permittee and the Department of Fish and Game defining operation of the fish passage facilities. Permittee shall record and maintain records of numbers of adult and juvenile steelhead trapped and transported by the facilities. The MOU shall be submitted to the State Water Resources Control Board, Chief, Division of Water Rights, annually. (0400500)
(0090700)

42. Permittee shall, in consultation with the Department of Fish and Game and the National Marine Fisheries Service, develop a formal Remedial Action Plan to address problems which may occur with the fish passage facilities. Should the facilities prove unsuccessful, the State Water Resources Control Board may, under its continuing jurisdiction, alter the project instream flow schedule (Tables A and B) to increase habitat below the dam. (0400500)

43. Should the Carmel River steelhead become listed as threatened or endangered under either the State or the Federal Endangered Species Acts prior to construction of the works authorized by this permit, permittee shall seek a formal biological opinion from the trustee agency and implement additional feasible mitigation measures identified in said opinion. (0400500)

44. Prior to construction, permittee shall, in consultation with the Department of Fish and Game, conduct additional investigations to further define the instream flow requirements in the reach immediately downstream of the New Los Padres Dam. Permittee shall prepare a final report of these investigations and submit the report to the Department of Fish and Game and the State Water Resources Control Board. Under its continuing authority, after notice and opportunity for hearing, the State Water Resources Control Board may modify the fishery bypass flows in this permit, based upon the results of said investigations. (0400500)

45. During the final project design phase, and prior to solicitation of bids for construction, permittee shall provide documentation to the State Water Resources Control Board that sufficient long-term financial resources have been committed to fund all mitigation measures specified in this permit to assure their continuing, full implementation. (0470500)
46. Permittee shall, in consultation with the Department of Fish and Game, conduct studies to determine the effectiveness of fish rescue operations specified in the Water Allocation Mitigation Program and the Steelhead Resource Mitigation Plan. The results shall be submitted to the State Water Resources Control Board, Chief, Division of Water Rights, for review and approval. (0400500)
47. Permittee shall annually monitor the volume of the Carmel River Lagoon and actual sand transport into the lagoon. Annual reports shall be submitted to the California Department of Parks and Recreation, Department of Fish and Game, and the State Water Resources Control Board, Chief, Division of Water Rights for review. Such monitoring shall take place for a period of 20 years, after which the program shall be evaluated. If increased sediment transport is observed, the permittee shall, in consultation with the Department of Parks and Recreation and the Department of Fish and Game, evaluate the significance of the impacts and initiate a program to prevent reduction in habitat value. (0400700)
48. For the protection of historic properties, including both prehistoric/ethnohistoric archeological resources and traditional cultural properties, permittee shall adhere to the May 2, 1995 *"Programmatic Agreement Among the U.S. Army Corps of Engineers, San Francisco District, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Issuance of a Permit Under Section 404 of the Clean Water Act for the New Los Padres Dam and Reservoir Project."* Permittee shall continue to consult with the U.S. Army Corps of Engineers, the State Water Resources Control Board, the State Historic Preservation Officer, the Advisory Council on Historic Preservation, and the Native Americans regarding cultural resources until all stipulations of the Programmatic Agreement and resultant Historic Properties Management Plan and any Historic Properties Treatment Plans have been completed to the satisfaction of all the parties. Any modifications to the Programmatic Agreement are subject to the approval of the Chief of the Division of Water Rights. The permittee shall also comply with the *"Procedure for the Protection of Historic and Cultural Properties"* (36 CFR 60) and the implementing regulations of the Advisory Council on Historic Preservation, 36 CFR 800. (0380500)
49. Permittee shall implement the mitigation measures regarding the archeological and traditional properties of importance to the Native Americans that result from the National Historic Preservation Act Section 106 process as set forth in the Historic Properties Management Plans and the Historic Properties Treatment Plans in the special permit term regarding the Programmatic Agreement. (0380700)
50. Permittee shall submit an annual progress report regarding cultural resources to the State Water Resources Control Board, Chief, Division of Water Rights, until such time that the cultural resource work has been completed or this permit is licensed. (0380700)

51. The State Water Resources Control Board reserves jurisdiction to require the permittee to implement such additional mitigation measures for protection of traditional cultural properties as may be necessary in the event the results of the National Historic Preservation Act Section 106 process does not meet with the satisfaction of the State Water Resources Control Board.

(0380600)

52. For the protection of historic properties including both prehistoric/ethnohistoric archeological resources and traditional cultural properties of importance to the Native Americans, permittee shall include the Native Americans as participants in the National Historic Preservation Act Section 106 process as specified in the Programmatic Agreement and the Memorandum of Understanding which were executed by the Tribe, the Nation, the District, and the U.S. Army Corps of Engineers.

(0380300)

53. Any mitigation measures that result from the process outlined in the Programmatic Agreement and in the Memorandums of Understanding, with the Esselen Tribe and Nation, are subject to the approval of the State Water Resources Control Board. If these measures are acceptable to the Chief, Division of Water Rights, permittee shall be responsible for full implementation of these measures.

(0380500)

(0490500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: OCTOBER 25 1995

STATE WATER RESOURCES CONTROL BOARD


for Chief, Division of Water Rights